

ENTERED

March 19, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

FRANK MALMSTEAD,

Plaintiff,

VS.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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CIVIL ACTION NO. 2:19-CV-144

ORDER ADOPTING MEMORANDUM & RECOMMENDATION


Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation (M&R). (D.E. 18). The M&R recommends that Attorney David Chermol's motion for attorney fees be granted. (D.E. 16).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 18). Accordingly, Chermol's motion for attorney fees is **GRANTED** (D.E. 16) and

the Court finds that he is entitled to a fee award of \$16,646.38. Further, Chermol is **ORDERED**, as recommended by the M&R, to refund his client the \$5,597 award he previously received under the Equal Access to Justice Act because it is the lesser of the two awards. (D.E. 18, p. 4).

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
March 19, 2021